IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7624 OF 2005

Shantaram Gundoba Jogadand ..Petitioner

Vs.

Block Development Officer,
Panchayat Samiti, Daund. ..Respondents

Mr. S.M. Sabrad for petitioner.
Mrs.Indrayani Koparkar i/by Mr.N.P. Deshpande for respondent.

CORAM: B.H. MARLAPALLE, J.

Date : June 07, 2007.

P.C.:

1. Heard M. Sabrad the learned counsel for the petitioner. Perused the application at Exh.31 filed by the defendant-Panchayat Samiti in Regular Civil Suit No. 107 of 1990. Said application came to be allowed by the trial court by its order dated 17/6/2003 and the plaintiff has been restrained from raising any construction over the suit premises without following due process of law as provided under the Bombay Rent Act till final disposal of the suit.

Being aggrieved by the said order, the petitioner-plaintiff filed Misc. Civil Appeal No. 39 of 2003 and the same came to be dismissed by the learned Additional District Judge at Baramati on 18/6/2005. Hence, this petition under Article 227 of the Constitution.

2. Both the courts below have concurrently accepted the contentions of the defendant that in the month of June 2003 without obtaining any permission the plaintiff started construction in the premises by demolishing the old walls and it is further alleged that one additional room has been constructed by raising brick and cement walls. There is no dispute that no permission was obtained from the defendant - Panchayat Samiti before such construction was carried out. The petitioner’s contentions that only tenantable repairs were carried out have been rejected by both the courts below and rightly so. Hence, no interference is called for in the impugned orders by exercising supervisory powers under Article 227 of the Constitution.

3. The petition is rejected summarily. However, the defendant - Panchayat Samiti will be required to carry out the tenantable repairs, more so when the premises are used as an Ashram School and the defendant - Panchayat Samiti's Block Development Officer shall inspect the premises within two weeks from today and if the repairs are required to be done taking into consideration the safety of the children and other staff, such repairs shall be completed within eight weeks from today.

(B.H. Marlapalle,J.)